

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,) CR-20-00371 WHA
)
PLAINTIFF,) SAN JOSE, CALIFORNIA
)
VS.) OCTOBER 15, 2020
)
ROBERT T. BROCKMAN,) PAGES 1-33
)
DEFENDANT.)
_____)

TRANSCRIPT OF ZOOM PROCEEDINGS
BEFORE THE HONORABLE NATHANAEL COUSINS
UNITED STATES MAGISTRATE JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF: UNITED STATES ATTORNEY'S OFFICE
BY: MICHAEL G. PITMAN
150 ALMADEN BOULEVARD, SUITE 900
SAN JOSE, CALIFORNIA 95113

FOR THE DEFENDANT: JONES DAY
BY: NEAL J. STEPHENS
1755 EMBARCADERO ROAD
PALO ALTO, CALIFORNIA 94303

BY: JASON S. VARNADO
717 TEXAS, SUITE 3300
HOUSTON, TEXAS 77002

PRETRIAL OFFICER: JAY CHRISTIAN

OFFICIAL COURT REPORTER: LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

PROCEEDINGS RECORDED BY MECHANICAL STENOGRAPHY
TRANSCRIPT PRODUCED WITH COMPUTER

1 SAN JOSE, CALIFORNIA

OCTOBER 15, 2020

2 P R O C E E D I N G S

3 (ZOOM PROCEEDINGS CONVENED AT 12:17 P.M.)

4 THE COURT: ALL RIGHT. REJOINING, GOOD AFTERNOON.

5 THE CLERK: CALLING 3:20-0371, UNITED STATES VERSUS
6 ROBERT T. BROCKMAN.

7 COUNSEL, PLEASE STATE YOUR APPEARANCES FOR THE RECORD.

8 MR. PITMAN: GOOD AFTERNOON, YOUR HONOR.

9 MICHAEL PITMAN FOR THE UNITED STATES.

10 THE COURT: GOOD AFTERNOON.

11 MR. STEPHENS: GOOD AFTERNOON, YOUR HONOR.

12 IT'S NEAL STEPHENS FROM JONES DAY IN PALO ALTO APPEARING
13 SPECIALLY FOR MR. BROCKMAN FOR TODAY'S PURPOSES. WITH ME AS
14 WELL IS MY PARTNER FROM HOUSTON, JASON VARNADO.

15 AND AS YOU CAN SEE, MR. BROCKMAN IS ALSO PRESENT AND
16 BEFORE THE COURT FROM HOUSTON AND CONSENTS TO THE VIDEO NATURE
17 OF THE APPEARANCE.

18 THE COURT: THANK YOU.

19 AND IF I CAN JUST HAVE MR. BROCKMAN IDENTIFY HIMSELF AND
20 CONFIRM THAT HE'S ABLE TO SEE AND HEAR US SO FAR.

21 I'M JUDGE COUSINS. I'M THE DUTY JUDGE TODAY.

22 THE DEFENDANT: YES, SIR.

23 MY NAME IS ROBERT T. BROCKMAN, AND I CAN SEE AND HEAR WITH
24 THE MAGICAL SOFTWARE SET UP HERE.

25 THE COURT: VERY GOOD. THANK YOU FOR BEING WITH US

1 TODAY.

2 WE ARE MAKING A RECORDING AND A TRANSCRIPTION OF TODAY'S
3 HEARING.

4 ALSO WITH US FROM U.S. PRETRIAL SERVICES IS
5 OFFICER CHRISTIAN, WHO'S ALSO ON THE SCREEN.

6 THE PURPOSE OF COURT TODAY, MR. BROCKMAN, IS TO ADVISE YOU
7 OF YOUR RIGHTS, TO ALERT YOU TO THE CHARGES FILED AGAINST YOU
8 IN AN INDICTMENT THAT WAS RETURNED BY THE GRAND JURY IN THIS
9 DISTRICT, AND ALSO TO DISCUSS CONDITIONS OF RELEASE OR
10 DETENTION AND TO SET SOME FURTHER DATES IN THE CASE.

11 THIS CASE HAS BEEN ASSIGNED TO DISTRICT COURT
12 JUDGE WILLIAM ALSUP IN SAN FRANCISCO.

13 THE INDICTMENT WAS ORIGINALLY FILED UNDER SEAL.

14 MR. PITMAN, DOES THE GOVERNMENT MOVE TO UNSEAL THE
15 INDICTMENT?

16 MR. PITMAN: YES, YOUR HONOR.

17 THE COURT: ALL RIGHT. THAT REQUEST IS GRANTED. THE
18 INDICTMENT IS UNSEALED.

19 AND MR. STEPHENS AND MR. VARNADO, HAVE YOU RECEIVED A COPY
20 OF IT?

21 MR. STEPHENS: WE GOT IT JUST EARLIER THIS WEEK, YOUR
22 HONOR.

23 THE COURT: ALL RIGHT. THANK YOU.

24 MR. BROCKMAN, NOW LET ME ADVISE YOU OF YOUR RIGHTS.

25 YOU HAVE THE RIGHT TO REMAIN SILENT. ANY WORDS THAT YOU

1 SAY CAN BE USED AGAINST YOU. IF YOU'VE ALREADY SPOKEN WITH A
2 GOVERNMENT AGENT, YOU DO NOT NEED TO SAY ANYTHING MORE. IF YOU
3 START TO MAKE A STATEMENT, YOU MAY STOP IMMEDIATELY.

4 YOU HAVE THE RIGHT TO AN ATTORNEY AT EVERY STAGE OF THE
5 CASE, AND IF YOU CANNOT AFFORD AN ATTORNEY, THE COURT WOULD
6 APPOINT ONE FOR YOU AT NO COST TO YOU.

7 I UNDERSTAND THAT YOU HAVE RETAINED COUNSEL AND THEY'RE
8 APPEARING WITH YOU TODAY, BUT IF CERTAIN THINGS CHANGE AND YOU
9 WISH THE COURT TO APPOINT AN ATTORNEY FOR YOU, YOU'LL LET US
10 KNOW AND WE'LL EVALUATE WHETHER YOU QUALIFY FOR COUNSEL.

11 DO YOU UNDERSTAND THAT RIGHT?

12 THE DEFENDANT: YES, I DO. THANK YOU, SIR.

13 THE COURT: ALL RIGHT. THANK YOU.

14 NEXT I'D LIKE TO ASK MR. PITMAN TO SUMMARIZE THE CHARGES
15 IN THE INDICTMENT AGAINST MR. BROCKMAN AND TO ADVISE HIM OF THE
16 MAXIMUM PENALTIES IF HE WERE CONVICTED. HE IS PRESUMED
17 INNOCENT OF THE CHARGES. THIS IS JUST TO ADVISE HIM OF THE
18 CHARGES HE FACES.

19 MR. PITMAN, YOU MAY PROCEED.

20 MR. PITMAN: THANK YOU, YOUR HONOR.

21 THE DEFENDANT HAS BEEN CHARGED WITH ONE COUNT OF
22 CONSPIRACY IN VIOLATION OF 18 UNITED STATES CODE, SECTION 371.

23 THE MAXIMUM PENALTIES ARE FIVE YEARS IN PRISON; A \$250,000
24 FINE; THREE YEARS SUPERVISED RELEASE; AND A \$100 SPECIAL
25 ASSESSMENT.

1 THE DEFENDANT HAS ALSO BEEN CHARGED WITH SEVEN COUNTS OF
2 TAX EVASION IN VIOLATION OF 26 UNITED STATES CODE,
3 SECTION 7201.

4 THE MAXIMUM PENALTIES FOR EACH COUNT ARE FIVE YEARS IN
5 PRISON; A \$250,000 FINE; THREE YEARS SUPERVISED RELEASE; A \$100
6 SPECIAL ASSESSMENT; AND THE COSTS OF PROSECUTION ARE AUTHORIZED
7 AS A PENALTY FOR THOSE COUNTS.

8 THE DEFENDANT HAS ALSO BEEN CHARGED WITH SIX COUNTS OF
9 FBAR VIOLATIONS, FOREIGN BANK ACCOUNT REPORTING VIOLATIONS, IN
10 VIOLATION OF 31 UNITED STATES CODE, SECTIONS 5314 AND 5322(B).

11 THE MAXIMUM PENALTIES FOR EACH COUNT ARE TEN YEARS IN
12 PRISON; A \$500,000 FINE; THREE YEARS SUPERVISED RELEASE; AND A
13 \$100 SPECIAL ASSESSMENT.

14 THE DEFENDANT HAS ALSO BEEN CHARGED WITH 20 COUNTS OF WIRE
15 FRAUD AFFECTING A FINANCIAL INSTITUTION IN VIOLATION OF
16 18 UNITED STATES CODE, SECTION 1343.

17 THE MAXIMUM PENALTY FOR EACH COUNT IS 30 YEARS IN PRISON;
18 A \$1 MILLION FINE; FIVE YEARS SUPERVISED RELEASE; AND A \$100
19 SPECIAL ASSESSMENT.

20 THE DEFENDANT HAS ALSO BEEN CHARGED WITH TWO COUNTS OF
21 CONCEALMENT MONEY LAUNDERING IN VIOLATION OF 18 UNITED STATES
22 CODE, SECTION 1956(A) (1) (B) (1).

23 THE MAXIMUM PENALTIES FOR EACH COUNT ARE 20 YEARS IN
24 PRISON; A \$500,000 FINE OR TWICE THE GROSS GAIN OR LOSS,
25 WHICHEVER IS GREATER; THREE YEARS SUPERVISED RELEASE; AND A

1 \$100 SPECIAL ASSESSMENT.

2 THE DEFENDANT HAS ALSO BEEN CHARGED WITH TWO COUNTS OF TAX
3 EVASION MONEY LAUNDERING IN VIOLATION OF 18 UNITED STATES CODE,
4 SECTION 1956(A) (1) (A) (2) .

5 THE MAXIMUM PENALTIES FOR EACH COUNT ARE 20 YEARS IN
6 PRISON; A \$500,000 FINE OR TWICE THE GROSS GAIN OR LOSS,
7 WHICHEVER IS GREATER; THREE YEARS SUPERVISED RELEASE; AND A
8 \$100 SPECIAL ASSESSMENT.

9 THE DEFENDANT HAS ALSO BEEN CHARGED WITH ONE COUNT OF
10 INTERNATIONAL CONCEALMENT MONEY LAUNDERING IN VIOLATION OF
11 18 UNITED STATES CODE, SECTION 1956(A) (2) (B) (1) .

12 THE MAXIMUM PENALTY FOR THIS COUNT IS 20 YEARS IN PRISON;
13 A \$500,000 FINE OR TWICE THE GROSS GAIN OR LOSS, WHICHEVER IS
14 GREATER; THREE YEARS SUPERVISED RELEASE; AND A \$100 SPECIAL
15 ASSESSMENT.

16 THE DEFENDANT HAS ALSO BEEN CHARGED WITH ONE COUNT OF
17 EVIDENCE TAMPERING IN VIOLATION OF 18 UNITED STATES CODE,
18 SECTION 1512(B) (2) (B) .

19 THE MAXIMUM PENALTY FOR THIS COUNT IS 20 YEARS IN PRISON;
20 A \$250,000 FINE; THREE YEARS SUPERVISED RELEASE; AND A \$100
21 SPECIAL ASSESSMENT.

22 THE DEFENDANT HAS ALSO BEEN CHARGED WITH ONE COUNT OF
23 DESTRUCTION OF EVIDENCE IN VIOLATION OF 18 UNITED STATES CODE,
24 SECTION 1512(C) (1) .

25 THE MAXIMUM PENALTY FOR THIS COUNT IS 20 YEARS IN PRISON;

1 A \$250,000 FINE; THREE YEARS SUPERVISED RELEASE; AND A \$100
2 SPECIAL ASSESSMENT.

3 THE COURT: THANK YOU.

4 MR. STEPHENS, WOULD YOU WAIVE A MORE DETAILED READING OF
5 THOSE CHARGES?

6 MR. STEPHENS: YES, YOUR HONOR.

7 FOR TODAY'S PURPOSES, JUST FOR THE COURT'S BENEFIT, WE --
8 IT'S A LENGTHY, COMPLEX INDICTMENT. WE JUST RECEIVED IT. WE
9 HAVE COVERED IT, AS YOU CAN APPRECIATE IT, WITH OUR CLIENT. WE
10 ARE PREPARED TO WAIVE READING FOR SURE AND ENTER A PLEA OF NOT
11 GUILTY TO ALL COUNTS AND A DENIAL OF ALL THE FORFEITURE
12 ALLEGATIONS.

13 THE COURT: THANK YOU. THE NOT GUILTY PLEA IS
14 ENTERED.

15 MR. PITMAN, A REMINDER TO YOU, THE INDICTMENT DOES ALLEGE
16 CRIME VICTIMS, IT IDENTIFIES VICTIMS OF THE WIRE FRAUD
17 AFFECTING A FINANCIAL INSTITUTION AT THE LEAST, SO A REMINDER
18 THAT THE GOVERNMENT HAS AN OBLIGATION TO NOTIFY ANY CRIME
19 VICTIMS TO ALLOW THEM TO HAVE NOTICE OF THE PROCEEDINGS, TO
20 CONSULT WITH GOVERNMENT COUNSEL, AND TO PARTICIPATE IN CERTAIN
21 PROCEEDINGS BEFORE THIS COURT. SO JUST A REMINDER THAT YOU
22 HAVE THAT OBLIGATION TO GIVE THEM THAT NOTICE AND OPPORTUNITY
23 TO PARTICIPATE IN THE PROCEEDINGS.

24 NEXT TOPIC IS CONDITIONS OF RELEASE OR DETENTION.

25 MR. PITMAN, WHAT IS THE GOVERNMENT'S MOTION AS TO

1 MR. BROCKMAN'S CONDITIONS DURING THE CASE?

2 MR. PITMAN: THE GOVERNMENT IS NOT MOVING FOR
3 DETENTION.

4 IT WOULD BE OUR PROPOSAL THAT THE DEFENDANT BE RELEASED ON
5 CONDITIONS, INCLUDING A \$1 MILLION SECURED BOND, AND THAT HIS
6 TRAVEL BE RESTRICTED TO NINE DISTRICTS, IN ADDITION TO THE
7 STANDARD TERMS, AND I DO NOT BELIEVE THAT THOSE TERMS ARE
8 AGREED.

9 THE COURT: ALL RIGHT. SO THAT -- WHAT YOU JUST GAVE
10 ME IS WHAT THE GOVERNMENT'S MOTION IS, AND YOU EXPECT THAT THE
11 DEFENSE HAS A DIFFERENT VIEW.

12 AT THIS MOMENT, HAS HE HAD ANY COMMUNICATIONS WITH
13 PRETRIAL SERVICES ABOUT WHAT MIGHT BE APPROPRIATE CONDITIONS?

14 MR. STEPHENS: HE HAS NOT, YOUR HONOR.

15 THE COURT: AND HAS HE BEEN BOOKED BY ANY U.S.
16 MARSHALS ON THE CHARGE?

17 MR. STEPHENS: NO, SIR, YOUR HONOR, BUT IT WAS OUR
18 INTENTION TO DO THAT.

19 WE -- FOR THE COURT'S BENEFIT, WE SPOKE TWICE WITH
20 GOVERNMENT COUNSEL AND WE HAVE REACHED AGREEMENT IN WORKING
21 THROUGH THE COURT'S ORDER SETTING CONDITIONS OF RELEASE, EXCEPT
22 FOR ONE LAST ITEM, AND THAT IS THE TERMS OF BAIL. WE THINK
23 IT'S INAPPROPRIATE TO HAVE A CASH BAIL OR CORPORATE SURETY BOND
24 HERE.

25 I CAN WALK YOU THROUGH THE OTHER TERMS THAT WE SPOKE WITH

1 MR. PITMAN ABOUT EARLIER THIS WEEK. THOSE ARE THE FIRST THREE
2 ON YOUR SHEET HERE, YOUR HONOR, THAT THE DEFENDANT WILL
3 OBVIOUSLY APPEAR, MR. BROCKMAN WILL APPEAR; HE WILL NOT COMMIT
4 ANY FEDERAL OR STATE CRIME; HE SHALL NOT HARASS, THREATEN,
5 INTIMIDATE, ET CETERA.

6 WE ALSO AGREE THAT HE WILL REPORT IN PERSON TO PRETRIAL
7 SERVICES. HE CAN DO SO THERE IN HOUSTON. WE HAVE ALREADY
8 REACHED OUT TO CONTACT THAT OFFICE AND ARE WILLING TO DO THAT
9 IN AN EXPEDITIOUS FASHION.

10 AND HE, FOR THE COURT'S BENEFIT, HAS ALREADY SURRENDERED
11 TO US, AT THE GOVERNMENT'S REQUEST, HIS PASSPORT.

12 SO THOSE ARE --

13 THE COURT: SORRY TO INTERRUPT. SO THE -- IF YOU'RE
14 NOT DONE, I'LL STOP SO YOU CAN FINISH.

15 MR. STEPHENS: OH, NO. GO AHEAD.

16 THE COURT: SO THE PART THAT'S DISAGREED UPON IS THE
17 AMOUNT AND SECURITIZATION OF THE BOND? IS THAT FAIR?

18 MR. STEPHENS: YEAH, THAT'S CORRECT, YOUR HONOR.

19 WE HAD DISAGREEMENT OVER THE JURISDICTIONS THAT HE COULD
20 TRAVEL IN WITHIN THE UNITED STATES, BUT THE BAIL ISSUE IS BY
21 FAR THE MOST IMPORTANT ONE TO US. WE WILL AGREE WITH THE
22 GOVERNMENT ON THE JURISDICTIONS THAT THEY HAVE PROPOSED, AND
23 FOR A.U.S.A. PITMAN'S BENEFIT, I'LL READ THEM IN, AND IF I
24 DON'T HAVE THEM RIGHT, PLEASE CORRECT ME.

25 THE COURT: BEFORE YOU READ ANYTHING IN, IS THERE A

1 WRITING? IF YOU'VE GOT A DRAFT BOND FORM, HAVE YOU GOT THAT
2 WRITTEN DOWN AND YOU CAN SEND IT TO ME?

3 MR. STEPHENS: I WISH I DID, YOUR HONOR. I
4 APOLOGIZE, BUT I DO NOT.

5 THE COURT: ALL RIGHT. THEN YOU CAN TELL ME WHAT
6 THEY ARE.

7 MR. STEPHENS: SURE.

8 THE DISTRICTS ARE THE SOUTHERN DISTRICT OF TEXAS; THE
9 DISTRICT OF COLORADO; THE NORTHERN DISTRICT OF CALIFORNIA; THE
10 SOUTHERN DISTRICT OF NEW YORK; THE D.C. AREA DISTRICTS, YOUR
11 HONOR, THE DISTRICT OF COLUMBIA AND THE EASTERN DISTRICT OF
12 VIRGINIA; AND THEN TWO DISTRICTS IN OHIO, THE SOUTHERN DISTRICT
13 OF OHIO AND THE NORTHERN DISTRICT OF OHIO.

14 AND THOSE REPRESENT, YOUR HONOR, AREAS WHERE HE EITHER
15 RESIDES OR HIS LAWYERS ARE OR HIS COMPANY IS.

16 THE COURT: ALL RIGHT. LET ME JUST SEGUE ON THAT
17 ONE.

18 MR. PITMAN, WHAT'S THE BASIS FOR HAVING A TRAVEL
19 RESTRICTION TO NINE DIFFERENT DISTRICTS AND WHAT'S THE CONCERN?

20 MR. PITMAN: WELL, IT'S THE -- THE CONCERN IS THAT
21 THE DEFENDANT POSES A RISK OF FLIGHT, YOUR HONOR.

22 THE COURT: ALL RIGHT. AND ARTICULATE FOR ME WHAT
23 ESTABLISHES THAT CONCERN.

24 MR. PITMAN: OKAY. SO OBVIOUSLY THERE ARE
25 STANDARD -- AND THIS IS -- I'LL ALSO INCORPORATE THE ARGUMENT I

1 WOULD MAKE WITH RESPECT TO THE SECURITY ON THE BOND, YOUR
2 HONOR.

3 THE BAIL REFORM ACT ANTICIPATES THAT WE'LL IMPOSE -- THE
4 COURT WILL IMPOSE THE LEAST RESTRICTIVE CONDITIONS NECESSARY TO
5 REASONABLY ASSURE THAT THE DEFENDANT WILL APPEAR AND GIVES US A
6 FRAMEWORK FOR ANALYZING THE POTENTIAL EFFICACY OF PROPOSED
7 CONDITIONS, INCLUDING THE NATURE AND CIRCUMSTANCES OF THE
8 OFFENSE, THE WEIGHT OF THE EVIDENCE AGAINST THE DEFENDANT, THE
9 HISTORY AND CHARACTERISTICS OF THE DEFENDANT, AND THE DANGER TO
10 THE COMMUNITY.

11 IN THIS CASE, THESE FACTORS DO SUPPORT IMPOSING CONDITIONS
12 ON THE DEFENDANT'S RELEASE, INCLUDING A SIGNIFICANT CASH BOND,
13 AND RESTRICTING HIS TRAVEL ONLY TO DISTRICTS THAT HE NEEDS TO
14 TRAVEL TO IN ORDER TO LITIGATE THIS CASE. HE'S GOT ATTORNEYS
15 ACROSS THE COUNTRY AND THE GOVERNMENT HAS AGREED THAT THERE'S
16 NO PROBLEM HAVING HIM TRAVEL TO THE DISTRICTS IN WHICH HE NEEDS
17 TO FOR HIS DEFENSE.

18 THERE'S ALSO TWO DISTRICTS IN OHIO THAT HE NEEDS TO TRAVEL
19 TO IN ORDER TO DO HIS WORK. HE'S THE CEO OF A COMPANY WITH
20 THOUSANDS OF EMPLOYEES, SO WE'VE AGREED TO THAT.

21 SO I'LL GO THROUGH THE FACTORS QUICKLY, YOUR HONOR.

22 THE NATURE AND CIRCUMSTANCES OF THE OFFENSE ARE SERIOUS.
23 WE'VE JUST GONE THROUGH THE PENALTIES.

24 THE INDICTMENT, IN CASE THE COURT HASN'T READ THE WHOLE
25 THING, ALLEGES AN EVASION, A TAX EVASION OF OVER \$2 BILLION.

1 IT ALSO ALLEGES THAT THE DEFENDANT DEFRAUDED HIS BUSINESS
2 PARTNERS AND LAUNDERED THE PROCEEDS, WHICH WERE IN EXCESS OF
3 \$60 MILLION, AND IT ALSO ALLEGES THAT THE DEFENDANT WAS
4 INVOLVED IN PHYSICALLY DESTROYING EVIDENCE THAT IS PERTINENT TO
5 THE CASE.

6 SO THAT -- IF THOSE CHARGES ARE ALL PROVEN, THIS COULD BE
7 THE MOST SIGNIFICANT INCOME TAX EVASION CASE AGAINST AN
8 INDIVIDUAL IN UNITED STATES HISTORY.

9 WITH RESPECT TO THE WEIGHT OF THE EVIDENCE AGAINST THE
10 DEFENDANT, I KNOW THAT'S THE LEAST IMPORTANT FACTOR, AS I'M
11 SURE THE COURT WILL REMIND ME.

12 I'LL JUST SAY THAT THE INDICTMENT IN THIS CASE IS 40 PAGES
13 LONG. IT INCORPORATES 39 COUNTS COVERING CRIMINAL CONDUCT
14 SPANNING TWO DECADES. THE INVESTIGATION, AS ALLEGED IN THE
15 INDICTMENT, HAS BEEN ONGOING FOR AT LEAST FOUR YEARS. SO I
16 WOULD JUST SAY THE INDICTMENT SPEAKS FOR ITSELF WITH RESPECT TO
17 THE STRENGTH OF THE EVIDENCE AGAINST THE DEFENDANT.

18 THE HISTORY AND CHARACTERISTICS OF THE DEFENDANT ARE
19 REALLY WHAT I'D LIKE TO DRAW THE COURT'S ATTENTION TO.

20 I THINK THE RECORD DEMONSTRATES BEYOND A PREPONDERANCE
21 STANDARD THAT THE DEFENDANT DOES POSE A FLIGHT RISK, AND THERE
22 ARE THREE THINGS I'D POSIT AS GOOD EVIDENCE OF THAT RISK, YOUR
23 HONOR.

24 THE FIRST IS THIS IS A VERY SERIOUS CASE. AS I SAID
25 BEFORE, IF THE DEFENDANT WERE TO SUFFER CONVICTIONS ON EVEN A

1 FEW OF THE COUNTS ALLEGED IN THIS INDICTMENT, HE COULD FACE A
2 SEVERE INCARCERATIVE PENALTY, WHICH IS OBVIOUSLY A CONCERN FOR
3 ANY DEFENDANT, BUT ESPECIALLY ONE WHO'S 79 YEARS OLD.

4 THE SECOND CONCERN WE HAVE IS THAT THE DEFENDANT HAS THE
5 MEANS TO FLEE, AND THOSE ARE EMBODIED IN TWO DIFFERENT
6 CATEGORIES OF EVIDENCE, I SUPPOSE.

7 THE FIRST IS THAT THE DEFENDANT, FROM OUR PERSPECTIVE, HAS
8 VIRTUALLY UNLIMITED FINANCIAL RESOURCES. THE INDICTMENT
9 ALLEGES THAT HE'S BEEN INVOLVED IN A MULTI-DECADE SCHEME TO
10 LAUNDER -- EXCUSE ME -- TO EVADE TAX ON BILLIONS OF DOLLARS OF
11 INCOME, AND RECORDS INDICATE THAT IN THE LAST FEW YEARS, HE'S
12 BEEN DRAWING A SALARY FROM THE COMPANY THAT HE RUNS OF AT LEAST
13 \$1 MILLION A MONTH. SO FINANCIAL RESOURCES ARE NOT A PROBLEM
14 FOR MR. BROCKMAN. IF HE WERE TO CHOOSE TO LEAVE THE DISTRICT
15 OR LEAVE THE JURISDICTION OF THE UNITED STATES, FINANCIALLY
16 THAT WOULD POSE NO PROBLEM FOR HIM.

17 ALSO, HE HAS THE PHYSICAL MEANS TO TRAVEL IN THE FORM OF A
18 JET. MR. BROCKMAN HAS ACCESS TO A BOMBARDIER GLOBAL EXPRESS
19 6000 JET, WHICH IS A PRIVATE PLANE CAPABLE OF TRANSATLANTIC
20 TRAVEL. THAT JET IS HANGARED IN THE DEFENDANT'S HOMETOWN, IT'S
21 MAINTAINED IN HOUSTON, AND HE HAS ACCESS TO IT. HE'S TRAVELED
22 INTERNATIONALLY SEVERAL TIMES IN THE LAST FEW YEARS.

23 SO HE HAS THE MOTIVE TO FLEE IN THAT HE'S FACING A VERY
24 SERIOUS CASE, AND HE HAS THE MEANS TO FLEE.

25 AND THE THIRD CATEGORY I'D LIKE TO DRAW THE COURT'S

1 ATTENTION TO IS PERHAPS THE ONE THAT DISTINGUISHES THIS FROM
2 OTHER CASES INVOLVING WEALTHY DEFENDANTS, AND THAT IS THE
3 DEFENDANT'S PROPENSITY FOR OBSTRUCTIVE CONDUCT.

4 HE'S BEEN CHARGED WITH SEVERAL COUNTS OF OBSTRUCTION OF
5 JUSTICE. ESSENTIALLY EVIDENCE TAMPERING AND WITNESS TAMPERING
6 ARE THE CHARGES. BUT THE ALLEGATIONS IN THE INDICTMENT
7 UNDERLYING THOSE COUNTS ARE THAT HE CAUSED ONE OF HIS
8 COMPATRIOTS TO PHYSICALLY DESTROY EVIDENCE THAT WAS GOING TO BE
9 PERTINENT TO THE INVESTIGATION.

10 THERE ARE ALSO OTHER ALLEGATIONS IN THE INDICTMENT ABOUT
11 OBSTRUCTIVE CONDUCT, INCLUDING USING A PROPRIETARY ENCRYPTED
12 E-MAIL SYSTEM, KEEPING SUPPLIES OF SPECIAL PAPER SPECIFICALLY
13 FOR BACKDATING DOCUMENTS, USING UNTRACEABLE VONAGE ACCOUNTS TO
14 COMMUNICATE WITH NOMINEES IN ORDER TO AVOID DETENTION BY LAW
15 ENFORCEMENT, AND INSTRUCTING A CO-CONSPIRATOR TO ATTEND A
16 CONFERENCE ON MONEY LAUNDERING USING AN ASSUMED IDENTITY.

17 SO THIS IS A SERIOUS CASE. THE DEFENDANT HAS THE MEANS
18 AND THE MOTIVE TO FLEE, AND HE HAS A DEMONSTRATED CAPACITY FOR
19 ENGAGING IN OBSTRUCTIVE CONDUCT.

20 UNDER THE CIRCUMSTANCES, IT'S THE GOVERNMENT'S POSITION
21 THAT AN UNSECURED BOND WOULD NOT REASONABLY ASSURE THAT HE
22 APPEAR AT SUBSEQUENT PROCEEDINGS, AND WE RESPECTFULLY REQUEST
23 THAT THE COURT IMPOSE THE TRAVEL RESTRICTIONS THAT WE'VE AGREED
24 TO, AND ALSO ORDER THAT THE DEFENDANT POST A \$1 MILLION SECURED
25 BOND.

1 THE COURT: THANK YOU, MR. PITMAN.

2 WHEN YOU SAY A \$1 MILLION SECURED BOND, ARE YOU LEAVING IT
3 FLEXIBLE THAT IT CAN BE SECURED BY ANY PROPERTY OR BY CASH, OR
4 IS THERE A PARTICULAR SECURITY THAT YOU HAVE IN MIND?

5 MR. PITMAN: OUR PREFERENCE WOULD BE A CASH BOND,
6 YOUR HONOR, BECAUSE IT'S -- IN THE EVENT OF A DEFAULT OR
7 FLIGHT, IT'S SO MUCH EASIER TO PROCESS.

8 BUT I THINK ANY BOND THAT HAS GENUINE SECURITY WOULD
9 OPERATE TO ENSURE THAT THE DEFENDANT IS AT LEAST TAKING THE
10 BOND INTO CONSIDERATION WHEN EVALUATING HIS OPTIONS.

11 THE COURT: ALL RIGHT. I'LL GET MR. STEPHENS'
12 RESPONSE, BUT I'LL JUST NOTE THAT AT THIS POINT IN THE
13 PROCEEDINGS, I HAVE NO INFORMATION ABOUT MR. BROCKMAN BESIDES
14 WHAT'S IN THE INDICTMENT, AND ORDINARILY THERE'S AN OPPORTUNITY
15 FOR PRETRIAL SERVICES TO CREATE A REPORT FOR THE COURT THAT
16 PROVIDES INFORMATION ABOUT THINGS SUCH AS HIS BACKGROUND, HIS
17 FINANCIAL POSITION, AND FROM THAT REPORT THAT GIVES ME
18 INFORMATION WHICH CAN GUIDE ME TO THE RIGHT ANSWER.

19 SO I'M HEARING FROM BOTH PARTIES THIS INFORMATION FOR THE
20 FIRST TIME WITHOUT HAVING, YOU KNOW, MY OWN INVESTIGATOR. I
21 DON'T HAVE MY OWN INVESTIGATOR TO FIGURE OUT THE ANSWERS TO
22 THESE THINGS. I HAVE TO RELY UPON THE PARTIES AND PRETRIAL
23 SERVICES TO PROVIDE THE INFORMATION TO THE COURT.

24 I TAKE IT, MR. PITMAN, THAT THERE'S NO CRIMINAL RECORD FOR
25 MR. BROCKMAN. YOU WOULD HAVE MENTIONED THAT IF THAT WAS A

1 BASIS FOR YOUR REQUEST.

2 MR. PITMAN: YOUR ASSUMPTION IS CORRECT, YOUR HONOR.
3 THERE'S NO CRIMINAL HISTORY THAT WE'RE AWARE OF.

4 THE COURT: ALL RIGHT. AND ALSO, I'LL JUST MAKE A
5 NOTE THAT AFTER I -- THE PARTIES ARE IN AGREEMENT THAT
6 MR. BROCKMAN IS GOING TO BE RELEASED, SO I'M IN AGREEMENT, TOO.
7 I'M GOING TO BE ORDERING HIM TO BE UNDER SUPERVISION WITH SOME
8 CONDITIONS.

9 I CAN HAVE PRETRIAL GIVE US A POST-RELEASE REPORT WITH
10 ADDITIONAL INFORMATION THAT CAN MODIFY THESE CONDITIONS. FOR
11 EXAMPLE, IF THE AMOUNT OF THE BOND IS TOO HIGH OR TOO LOW,
12 PRETRIAL CAN TELL ME, AFTER THEY'VE DONE SOME INQUIRY, THAT
13 IT'S TOO HIGH OR TOO LOW AND WE CAN THEN CHANGE THE CONDITIONS.

14 I'M JUST GOING TO DO SOMETHING TODAY BASED ON WHAT YOU
15 TELL ME, BUT SOME DEEPER INQUIRY COULD BE APPROPRIATE.

16 MR. STEPHENS, BACK TO YOU TO GIVE ME FURTHER ARGUMENT
17 ABOUT THE FINANCIAL CONDITIONS FOR RELEASE.

18 MR. STEPHENS: THANK YOU, YOUR HONOR.

19 AS TO THAT, IT'S OUR POSITION THAT THIS SHOULD BE A NO
20 CASH BAIL SITUATION. MR. BROCKMAN BEFORE YOU HAS HAD AN
21 EXCEPTIONALLY STABLE HOME LIFE, A WORK LIFE, AND A COMMUNITY
22 LIFE, AND I'LL DETAIL THAT FOR YOU HERE SHORTLY, YOUR HONOR.

23 MR. BROCKMAN IS 79 YEARS OLD. HE HAS AND IS BATTLING SOME
24 SERIOUS MEDICAL ISSUES, WHICH INCLUDE PARKINSON'S AND A HEART
25 CONDITION, AND IN PAST YEARS HE HAS ALSO HAD TWO SEPARATE BOUTS

1 WITH CANCER.

2 AS COUNSEL HAS ACKNOWLEDGED, HE HAS NO CRIMINAL HISTORY.
3 HE IS A FORMER UNITED STATES MARINE SERVING IN THE LATE 1950S
4 THROUGH THE MID-1960S.

5 AS FAR AS HIS HOME LIFE, HE'S BEEN MARRIED FOR 50 YEARS TO
6 HIS WIFE, DOROTHY. THEY RESIDE IN TEXAS AND IN COLORADO.

7 AS FAR AS HIS WORK HISTORY, YOUR HONOR, HE WAS -- HE HAD A
8 GREAT ACADEMIC CAREER AT THE UNIVERSITY OF FLORIDA. THAT LED
9 TO HIS FIRST JOB AT FORD MOTOR COMPANY. AFTER A FEW YEARS
10 THERE, HE MOVED ON TO IBM AND HAS ALWAYS BEEN FOCUSSED IN THE
11 SALES INTO THE AUTOMOTIVE INDUSTRY.

12 AND AFTER ABOUT FIVE YEARS AT IBM, IN 1970 HE STARTED HIS
13 OWN COMPANY, A COMPANY CALLED UCS, WHICH IS UNIVERSAL COMPUTER
14 SERVICES, AND IT WAS A SOFTWARE COMPANY, YOUR HONOR, THAT
15 DEVELOPED SOFTWARE THAT CAR DEALERSHIPS COULD USE TO TRACK THE
16 INVENTORY OF PARTS LOCATED WITHIN THE DEALERSHIP. THAT
17 COMPANY, YEARS LATER IN 2006, MERGED WITH REYNOLDS.

18 MR. BROCKMAN IS CURRENTLY THE CEO AND CHAIRMAN OF THE BOARD OF
19 REYNOLDS CORPORATION.

20 HE HAS ALSO SERVED ON NUMEROUS COMMUNITY BOARDS, MOSTLY IN
21 THE HOUSTON AREA. HE SERVES ON THE BOARD OF THE CANCER CENTER
22 AT MD ANDERSON IN HOUSTON. HE IS ON TWO BOARDS AT
23 RICE UNIVERSITY. HE'S ON THE BOARD OF TRUSTEES FOR THE
24 UNIVERSITY, AND HE'S ON THE BOARD OF OVERSEERS FOR THE BUSINESS
25 SCHOOL AT RICE.

1 HE IS ALSO ON THE BOARD OF TRUSTEES AT BAYLOR MEDICAL
2 UNIVERSITY, AND AS WELL AS THE FORMER CHAIRMAN OF THE BOARD OF
3 TRUSTEES AND CURRENTLY A LIFE TRUSTEE OF CENTRE COLLEGE IN
4 KENTUCKY.

5 TO COUNSEL'S POINT, YOUR HONOR, ON RISK OF FLIGHT,
6 MR. BROCKMAN HAS KNOWN ABOUT THIS INVESTIGATION FOR FOUR YEARS.
7 HE'S HERE TODAY, YOU KNOW, VOLUNTARILY AFTER ACCEPTING A
8 SUMMONS FROM THE GOVERNMENT.

9 HE IS NOT A FLIGHT RISK. HE'S CERTAINLY NOT A DANGER TO
10 THE COMMUNITY. HE'S DEALING WITH VERY SERIOUS MEDICAL ISSUES,
11 AND IT'S OUR VIEW THAT RELEASE ON HIS OWN RECOGNIZANCE IS
12 APPROPRIATE, OR IF THE COURT WANTS TO FASHION SOME TYPE OF
13 PERSONAL SURETY BOND, A PERSONAL SURETY BOND UP TO IN THE
14 NEIGHBORHOOD OF \$250,000 IS MORE THAN APPROPRIATE TO ASSURE HIS
15 ATTENDANCE AT ALL THE COURT PROCEEDINGS.

16 THE COURT: AND GIVEN MY COMMENTS THAT I KNOW NOTHING
17 ABOUT, YOU KNOW, HIS FINANCIAL SITUATION BEYOND WHAT YOU'RE
18 PROFFERING TO ME AND WHAT THE GOVERNMENT IS PROFFERING TO ME,
19 IT MAKES IT CHALLENGING FOR ME TO ESTABLISH THE AMOUNT THAT
20 WOULD BE APPROPRIATE TO ENCOURAGE HIM TO COME TO COURT WHEN
21 ORDERED, AND OF COURSE COMING TO COURT RIGHT NOW MEANS COMING
22 REMOTELY AS HE'S DONE TODAY.

23 DO YOU HAVE A PROFFER AS TO, BETWEEN THIS ON HIS OWN
24 RECOGNIZANCE OR 250 OR A MILLION DOLLARS AS TO, YOU KNOW, WHY I
25 WOULD PICK THE LOWER NUMBER AND NOT THE HIGHER NUMBER?

1 MR. STEPHENS: YEAH. I JUST THINK A CASH BAIL
2 NUMBER, YOUR HONOR, IS INAPPROPRIATE HERE. A PERSONAL
3 RECOGNIZANCE BOND WILL ASSURE HIS APPEARANCE, AND PARTICULARLY
4 GIVEN HIS ROOTS IN THE COMMUNITY, HIS ACTIVE SERVICE ON THESE
5 BOARDS, THE LENGTH OF TIME THAT HE HAS BEEN IN THE COMMUNITY,
6 WE DON'T SEE THE FLIGHT RISK GIVEN THAT HE'S KNOWN THAT THIS
7 INVESTIGATION HAS BEEN ONGOING.

8 SO A LOT OF WHAT COUNSEL WAS TALKING ABOUT WAS WHAT
9 HAPPENS IF CONVICTED, BUT WE DENY AND REFUTE ALL THE
10 ALLEGATIONS AND ARE LOOKING FORWARD TO LITIGATING THIS.

11 THE COURT: AND DOES HE OWN PROPERTY THAT COULD BE
12 POSTED AS A SECURED ASSET TO SECURE THE COMBINATION OF
13 CONDITIONS?

14 MR. STEPHENS: YES, YOUR HONOR, I DO THINK THAT WE
15 COULD HAVE SOME PROPERTY. I DON'T KNOW THAT IT'S ACTUALLY
16 APPROPRIATE OR --

17 THE COURT: I KNOW YOU DON'T AGREE WITH IT, BUT IF HE
18 DIDN'T OWN PROPERTY, THEN I WOULDN'T BE -- I WOULDN'T BE
19 SUGGESTING THAT IT BE POSTED AS SECURITY, AND SOME DEFENDANTS
20 DON'T OWN PROPERTY THAT THEY CAN POST AS SECURITY. IF HE DOES,
21 THEN THAT BECOMES A POTENTIAL, A POTENTIAL ITEM THAT CAN BE
22 POSTED TO HELP SECURE HIS RELEASE.

23 LET ME ASK OFFICER CHRISTIAN, WHO'S BEEN LISTENING IN, IF
24 HE HAS ANY FEEDBACK ABOUT THE CONDITIONS OF SUPERVISION THAT HE
25 WOULD ASSERT.

1 OFFICER CHRISTIAN: HELLO, YOUR HONOR, AND ALL
2 PARTIES.

3 SO I DIDN'T GET THE INFORMATION REGARDING THE TRAVEL
4 RESTRICTIONS. THERE WERE A FEW DISTRICTS LISTED, AND I HAD
5 SOUTHERN DISTRICT OF TEXAS, COLORADO, NORTHERN DISTRICT,
6 SOUTHERN DISTRICT OF NEW YORK, EASTERN DISTRICT, SOUTHERN
7 DISTRICT OF OHIO AND NORTHERN DISTRICT OF OHIO.

8 WAS THERE A DISTRICT I MISSED IN THERE?

9 THE COURT: D.C. ALSO, DISTRICT OF COLUMBIA.

10 MR. STEPHENS, WAS THERE ANOTHER?

11 MR. STEPHENS: JUST THE NORTHERN DISTRICT OF
12 CALIFORNIA WHICH I THINK MR. CHRISTIAN PICKED UP.

13 THE COURT: YEAH. THANK YOU.

14 I MAY HAVE INTERRUPTED YOU. GO AHEAD, OFFICER CHRISTIAN.

15 OFFICER CHRISTIAN: THE ONLY OTHER THING WOULD BE IF
16 CONDITIONS WERE FOUND TODAY THAT HE WOULD BE RELEASED, WHICH IT
17 SOUNDS LIKE THAT'S THE DIRECTION PEOPLE ARE HEADING, WE WOULD
18 ASK THAT THE DEFENDANT CONTACT OUR OFFICE IN SAN FRANCISCO
19 TOMORROW SO THAT WE CAN BEGIN PREPARING A PACKET FOR -- SINCE
20 WE ARE THE CHARGING DISTRICT, A PACKET FOR WHAT WOULD BE THE
21 SOUTHERN DISTRICT OF TEXAS, I BELIEVE, WHERE HOUSTON IS.

22 MR. PITMAN: YES.

23 OFFICER CHRISTIAN: SO WE WOULD BE PREPARING THAT
24 PACKET FOR THEM.

25 BUT SINCE WE'RE THE CHARGING DISTRICT, WE HAVE TO START

1 WITH OUR DISTRICT, SO WE WOULD BE THE ONE WRITING THE REPORT
2 AND ASKING THE SOUTHERN DISTRICT TO, YOU KNOW, FOLLOW THE
3 CONDITIONS THAT ARE OUTLINED HERE OR MODIFY THEM HERE.

4 AND THAT ALSO WOULD BE THE CASE AROUND WHERE TO REPORT IN
5 TEXAS FOR THE U.S. MARSHALS SERVICE. I'M UNCERTAIN WHERE TO
6 TELL HIM TO REPORT, SO THAT WOULD BE SOMETHING WE WOULD NEED TO
7 FIGURE OUT AND HAVE MORE INFORMATION FOR HIM TOMORROW.

8 MR. VARNADO: AND YOUR HONOR, THIS IS MR. VARNADO.

9 WE WILL ABSOLUTELY DO THAT AND FACILITATE THAT
10 COMMUNICATION, MR. CHRISTIAN, AT WHATEVER TIME THE COURT DEEMS
11 APPROPRIATE.

12 AND ON THE DISTRICTS, I WOULD JUST WANT TO REVISIT, BUT WE
13 ACTUALLY THINK THE CONTINENTAL U.S. IS APPROPRIATE FOR THIS
14 RESTRICTION. THERE'S NO REASON TO BE MORE RESTRICTIVE THAN
15 THAT.

16 WE AGREED TO THE DISTRICTS SPECIFICALLY WITH THE
17 GOVERNMENT IN HOPES THAT THEY WOULD MODIFY THEIR POSITION ON
18 REQUIRING A CASH BOND OF A MILLION DOLLARS WHICH WE THINK IS
19 INAPPROPRIATE.

20 SO IF THE COURT IS SO INCLINED AND IT'S EASIER, THEN
21 CERTAINLY WE ASSERT THE CONTINENTAL U.S. AS TRAVEL IS FAIR.

22 THE COURT: THANK YOU, MR. VARNADO.

23 MR. PITMAN, MY REACTION TO THE NINE DISTRICTS -- I'VE
24 NEVER HAD A CASE WHERE I PERMITTED TRAVEL TO NINE DISTRICTS
25 BEFORE. MAYBE YOU'RE GOING TO TELL ME THIS IS THE BIGGEST TAX

1 CASE EVER, SO IT'S JUSTIFIED TO BE A LOT OF DISTRICTS.

2 BUT ADMINISTRATIVELY TO ENFORCE THAT FOR PRETRIAL, IT
3 MEANS THEY'RE GOING TO BE TRACKING TRAVEL WITH -- YOU KNOW,
4 THERE ARE PRETTY FINE LINES BETWEEN DIFFERENT DISTRICTS IN
5 OHIO, AND IT INCREASES A CHANCE FOR AN ACCIDENTAL -- IF THE
6 BOMBARDIER LANDS AT THE WRONG AIRPORT, NOW HE'S GOING TO BE
7 ARRESTED. THAT'S A LOT OF SUPERVISION AND ENFORCEMENT WHEN, IF
8 THE REAL CONCERN IS HE'S GOING TO LEAVE THE UNITED STATES, THEN
9 WHY NOT JUST HAVE IT BE A RESTRICTION THAT HE NOT LEAVE THE
10 UNITED STATES?

11 MR. VARNADO: AND, YOUR HONOR, I DO HAVE THE
12 PASSPORT, JUST TO REITERATE THAT. I'M HOLDING IT HERE AND
13 WE'LL TURN IT IN TO PRETRIAL (INDICATING).

14 THE COURT: THANK YOU.

15 MR. PITMAN: YOUR HONOR, I UNDERSTAND THE LOGISTICAL
16 CONCERNS THAT YOU'RE RAISING. IN A TYPICAL WHITE COLLAR CASE
17 LIKE THIS, WE WOULD SEEK TO RESTRAIN THE DEFENDANT TO THE
18 NORTHERN DISTRICT AND ANY DISTRICT THAT HE NEEDED TO TRAVEL TO
19 FOR HIS OWN DEFENSE.

20 I UNDERSTAND THAT THESE CONDITIONS MAY CREATE ISSUES FOR
21 PRETRIAL, AS WELL AS FOR THE PARTIES, AND OBVIOUSLY IF THERE IS
22 EXTRA TRAVEL THAT'S NECESSARY, MY ANTICIPATION IS THAT WE'LL BE
23 ABLE TO WORK TOGETHER TO MAKE SURE THAT THOSE ARE STIPULATED
24 AND THAT TRAVEL IS PERMITTED AS APPROPRIATE.

25 BUT AT LEAST, ESPECIALLY DURING THE INITIAL PART OF THE

1 CASE, YOUR HONOR, UNTIL THINGS GET SETTLED DOWN, WE WOULD LIKE
2 PRETRIAL AND THE U.S. ATTORNEY'S OFFICE TO BE INVOLVED IN
3 UNDERSTANDING MR. BROCKMAN'S TRAVEL PATTERNS.

4 WE WERE PERHAPS TOO GENEROUS IN AGREEING THAT, YOU KNOW,
5 GIVEN THE FACT THAT HE'S REPRESENTED BY ATTORNEYS ALL OVER THE
6 COUNTRY, THAT WE WOULDN'T DISPUTE THAT HE SHOULD TRAVEL TO
7 EVERY DISTRICT NECESSARY TO FACILITATE VISITS WITH THOSE
8 LAWYERS, BUT THAT IS THE -- THAT'S WHY THERE ARE SO MANY AGREED
9 DISTRICTS.

10 TYPICALLY IT WOULD BE THE NORTHERN DISTRICT AND WHEREVER
11 THE LAWYER IS, AND IN THIS CASE THERE ARE MANY OF THEM.

12 THERE'S -- THE EXCEPTIONS, OF COURSE, ARE THE DISTRICTS IN
13 OHIO, AND WE JUST THINK IT'S APPROPRIATE TO ALLOW HIM TO
14 CONTINUE TO TRAVEL THERE IF NECESSARY IN THAT HE IS THE CEO OF
15 A COMPANY THAT EMPLOYS THOUSANDS OF PEOPLE.

16 OFFICER CHRISTIAN: AND IF I COULD ALSO CLARIFY, YOUR
17 HONOR, WOULD HE BE RESIDING IN HOUSTON? IT SOUNDED LIKE HE
18 MIGHT HAVE A FEW PLACES HE'S RESIDING, WHICH MAKES SUPERVISION
19 CHALLENGING. SO WHEN THE ORDER OF CONDITIONS OF RELEASE ARE
20 STIPULATED TODAY, HAVING THE ADDRESS THAT HE WILL REMAIN AT IS
21 MORE HELPFUL FOR SUPERVISION, AND USUALLY IN THIS CASE WHAT WE
22 WOULD REQUEST.

23 MR. VARNADO: AND HE WILL BE RESIDING IN HOUSTON,
24 YOUR HONOR. HE MAY PERIODICALLY TRAVEL TO COLORADO, BUT HE
25 WILL BE RESIDING IN HOUSTON.

1 OFFICER CHRISTIAN: UNDERSTOOD.

2 THE COURT: ALL RIGHT. I'M JUST REVIEWING THE
3 PROPOSED CONDITIONS. ONE MOMENT.

4 (PAUSE IN PROCEEDINGS.)

5 MR. VARNADO: YOUR HONOR, I DO HATE TO INTERRUPT. I
6 DID WANT TO JUST MENTION ONE MORE THING.

7 AGAIN, APOLOGIES. MR. VARNADO HERE.

8 WHEN WE HAD SPOKEN WITH THE GOVERNMENT -- I JUST HEARD
9 MR. PITMAN SAY THE STANDARD CONDITIONS, AND I'M NOT LOOKING AT
10 THE SAME FORM THAT YOU ARE, BUT WE SPECIFICALLY HAD THAT THE
11 GOVERNMENT WAS NOT SEEKING A CONDITION RELATED TO FIREARMS.
12 THAT MIGHT BE IN THE STANDARD FORM OF THE NORTHERN DISTRICT,
13 I'LL DEFER TO MY COLLEAGUE, MR. STEPHENS. BUT THAT WAS ONE IN
14 PARTICULAR THAT THE GOVERNMENT SAID THEY WERE NOT -- DID NOT
15 HAVE AN INTEREST IN TRYING TO ENFORCE.

16 THE COURT: YEAH, HE DID NOT READ THAT ONE AS A
17 CONDITION THAT HE WAS PROPOSING.

18 MR. VARNADO: VERY WELL.

19 THE COURT: IT WAS MR. STEPHENS WHO READ IT, BUT
20 MR. PITMAN AGREED TO THE CONDITIONS THAT MR. STEPHENS READ.

21 ALL RIGHT. I'M THINKING -- WHEN DO THE PARTIES WANT TO
22 APPEAR BEFORE JUDGE ALSUP? ASSUMING I'M GOING TO ISSUE RELEASE
23 CONDITIONS HERE, WHEN DO YOU WANT TO HAVE THAT NEXT APPEARANCE?

24 MR. STEPHENS: HOW ABOUT THE FIRST WEEK OF NOVEMBER,
25 YOUR HONOR? OR SECOND WEEK?

1 THE CLERK: ACCORDING TO HIS CALENDAR,
2 NOVEMBER AVAILABILITY IS NOVEMBER 17TH OR 24TH.

3 MR. STEPHENS: SO EITHER ONE OF THOSE DATES IS GOOD
4 BY ME, BY US.

5 MR. VARNADO: MAYBE THE 17TH WOULD BE PREFERABLE,
6 YOUR HONOR.

7 THE COURT: ALL RIGHT. WE'LL SET IT NOVEMBER 17TH
8 BEFORE JUDGE ALSUP IN SAN FRANCISCO. THAT'LL BE A REMOTE
9 HEARING I ASSUME, UNLESS HE ORDERS OTHERWISE.

10 WHAT TIME IS THAT ON THE 17TH?

11 THE CLERK: 2:00 O'CLOCK, YOUR HONOR.

12 THE COURT: 2:00 O'CLOCK PACIFIC TIME, NOVEMBER 17TH
13 BEFORE JUDGE ALSUP.

14 AND WOULD THE PARTIES LIKE TO EXCLUDE TIME UNTIL THAT DATE
15 FOR SPEEDY TRIAL?

16 MR. STEPHENS: THAT'S FINE FOR ADEQUATE PREPARATION.

17 THE COURT: ALL RIGHT.

18 MR. BROCKMAN, WHAT WE'RE TALKING ABOUT IS YOU HAVE A RIGHT
19 TO A TRIAL WITHIN 70 DAYS OF BEING CHARGED. THAT TIME PERIOD
20 CAN BE EXTENDED SO THAT YOUR ATTORNEYS CAN INVESTIGATE THE
21 CHARGES AGAINST YOU AND COMMUNICATE WITH THE GOVERNMENT AND
22 LOOK AT ANY DISCOVERY THAT THE GOVERNMENT PRODUCES TO THEM.

23 SO FOR THE EFFECTIVE PREPARATION OF COUNSEL, I'LL EXCLUDE
24 TIME UNTIL NOVEMBER 17TH, 2020.

25 MR. STEPHENS: YOUR HONOR, WE WOULD MAKE OUR REQUEST

1 FOR RULE 16 DISCOVERY.

2 THE COURT: MR. PITMAN HEARS THAT AND WILL RESPOND.

3 MR. PITMAN: YES.

4 THE COURT: VERY GOOD. ALL RIGHT.

5 THESE THEN WILL BE THE CONDITIONS OF RELEASE WHICH I'M
6 ORDERING, AND I'M GOING TO REVIEW THEM WITH YOU AND PROVIDE YOU
7 A WRITTEN COPY. MY DEPUTY IS GOING TO ASSIST ME BY WRITING
8 THEM DOWN AS I RECOUNT THEM, AND WE'LL GET IT TO YOU LATER
9 TODAY.

10 THESE ARE GOING TO BE TEMPORARY CONDITIONS BECAUSE I WANT
11 PRETRIAL TO LOOK INTO THESE CONDITIONS FURTHER. THEY MAY AGREE
12 THAT THESE ARE THE PERMANENT ONES, BUT IF THEY HAVE PROPOSED
13 MODIFICATIONS, I WANT TO SET A ZOOM HEARING IN TWO WEEKS FROM
14 TODAY ON THE 29TH AT WHICH POINT WE CAN COME BACK TO MODIFY
15 THESE, IF APPROPRIATE, OR YOU MAY ALL AGREE THAT THEY'RE FINE
16 AND DON'T NEED MODIFICATION. BUT I DO WANT TO HAVE AN
17 OPPORTUNITY TO FOLLOW UP ONCE I'VE GOTTEN SOME MORE FINANCIAL
18 INFORMATION ABOUT MR. BROCKMAN.

19 THE TEMPORARY CONDITIONS ARE THAT MR. BROCKMAN IS ORDERED
20 RELEASED ON A \$1 MILLION UNSECURED BOND. AND IT MAY VERY WELL
21 BE THAT THERE ARE SOME PROPERTIES THAT COULD BE POSTED TO
22 SECURE THAT, AND I WANT PRETRIAL TO LOOK INTO WHETHER THERE'S
23 AN APPROPRIATE PROPERTY OR PROPERTIES THAT CAN SECURE THE BOND,
24 BUT I'M USING THAT FIGURE. IT'S, OF COURSE, MORE THAN WHAT THE
25 DEFENSE SUGGESTS, AND IT'S NOT SECURED LIKE THE GOVERNMENT

1 WOULD BE REQUESTING, BUT IT'S IN LIGHT OF THE FACT THAT
2 MR. BROCKMAN HAS KNOWN ABOUT THE POTENTIAL CHARGE FOR A NUMBER
3 OF YEARS AND HAS NOT FLED.

4 ON THE OTHER HAND, THERE ARE SERIOUS CHARGES OF
5 CONCEALMENT AND EVASION AND EVIDENCE TAMPERING, DESTRUCTION OF
6 EVIDENCE, THAT ARE CONCERNING AND SUGGEST, WITH MR. BROCKMAN'S
7 FINANCIAL ABILITY AND CAPABILITY TO FLEE THE COUNTRY, THAT
8 THERE SHOULD BE A SIGNIFICANT BOND. SO THAT'S WHY I'M THINKING
9 A MILLION DOLLARS.

10 IT COULD BE THAT PRETRIAL SAYS THAT THAT SHOULD BE LOWERED
11 OR RAISED OR SECURED IN SOME WAY, BUT THIS WILL ALLOW PRETRIAL
12 TO GATHER MORE INFORMATION FROM THE PARTIES AND MAKE A REPORT
13 TO THE COURT.

14 AND ON THAT \$1 MILLION UNSECURED BOND, THE DEFENDANT MUST
15 COME TO COURT WHEN ORDERED. THE NEXT COURT DATE IS BEFORE ME
16 ON THE 29TH OF OCTOBER FOR A FOLLOW-UP.

17 AND IF HE IS SENTENCED, HE MUST SURRENDER TO SERVE ANY
18 SENTENCE IMPOSED.

19 WHILE ON RELEASE, HE MAY NOT COMMIT ANY FEDERAL, STATE, OR
20 LOCAL CRIME.

21 HE MUST NOT HARASS, THREATEN, INTIMIDATE, INJURE, TAMPER
22 WITH, OR RETALIATE AGAINST ANY WITNESS, VICTIM, JUDGE, OR
23 JUROR, AND MAY NOT OBSTRUCT ANY CRIMINAL INVESTIGATION.

24 HE'LL BE SUBJECT TO PRETRIAL SERVICES' SUPERVISION, AND HE
25 MUST CONTACT PRETRIAL BY TOMORROW -- OFFICER CHRISTIAN WILL

1 PROVIDE THE NUMBER FOR THAT FOLLOW-UP COMMUNICATION -- AND
2 REPORT THEREAFTER TO PRETRIAL SERVICES.

3 I EXPECT THAT THE HOUSTON OFFICE WILL BE DOING THE LOCAL
4 SUPERVISION, BUT PRETRIAL WILL ESTABLISH THAT.

5 THE PASSPORT I'VE SEEN IN COUNSEL'S HAND. THAT MUST BE
6 SURRENDERED TO PRETRIAL SERVICES.

7 AND OFFICER CHRISTIAN, WHEN SHOULD WE MAKE THAT DEADLINE?

8 OFFICER CHRISTIAN: IF WE CAN MAKE THAT DEADLINE
9 MONDAY SO THAT THEY CAN OVERNIGHT IT TOMORROW?

10 THE COURT: ALL RIGHT. SO TO PRETRIAL BY MONDAY, THE
11 19TH.

12 AND MR. BROCKMAN MAY NOT APPLY FOR A PASSPORT OR OTHER
13 DOCUMENTS TO LEAVE THE UNITED STATES.

14 WHILE ON RELEASE, MR. BROCKMAN MAY NOT CHANGE HIS
15 RESIDENCE OR TELEPHONE NUMBER WITHOUT ADVANCE APPROVAL OF
16 PRETRIAL SERVICES. THAT MEANS HE NEEDS TO PROVIDE PRETRIAL
17 WITH HIS PRIMARY RESIDENCE AND TELEPHONE CONTACT INFORMATION,
18 AND HE MAY NOT CHANGE THOSE WITHOUT ADVANCE APPROVAL OF
19 PRETRIAL SERVICES.

20 I WILL IMPOSE THE TRAVEL RESTRICTIONS THE PARTIES AGREED
21 TO. I AM CONCERNED THAT THEY ARE ADMINISTRATIVELY CHALLENGING
22 TO ENFORCE, AND PRETRIAL CAN LOOK INTO WHETHER THESE REMAIN TO
23 BE VIABLE OR NOT.

24 BUT THE CONDITIONS OF TRAVEL ARE RESTRICTED TO THE
25 SOUTHERN DISTRICT OF TEXAS; THE DISTRICT OF COLORADO; THE

1 NORTHERN DISTRICT OF CALIFORNIA, THAT'S THIS DISTRICT; THE
2 SOUTHERN DISTRICT OF NEW YORK; THE DISTRICT OF COLUMBIA; THE
3 EASTERN DISTRICT OF VIRGINIA; AND THE SOUTHERN AND NORTHERN
4 DISTRICTS OF OHIO.

5 AND MR. PITMAN IS OBLIGATED TO PROVIDE TO THE DEFENSE
6 INFORMATION ABOUT WHERE THOSE DISTRICTS ARE SO THAT
7 MR. BROCKMAN CAN COMPLY. WE'VE GOT A MAP OF THE NORTHERN
8 DISTRICT OF CALIFORNIA. THAT'S FROM MONTEREY UP TO THE OREGON
9 BORDER. BUT SOME OF THOSE OTHER DISTRICTS ARE GERRYMANDERED
10 AND CAN BE A BIT TRICKY ABOUT WHERE THEY ARE.

11 SO, MR. PITMAN, IF YOU CAN ALERT THE DEFENSE TO WHERE
12 THOSE JURISDICTIONS ARE, WHERE IT'S NOT AN ENTIRE STATE -- FOR
13 EXAMPLE, THE SOUTHERN DISTRICT OF TEXAS HAS GOT SORT OF JAGGED
14 LINES -- PLEASE PROVIDE THAT INFORMATION TO THE DEFENSE SO THAT
15 MR. BROCKMAN DOES NOT HAVE AN INADVERTENT VIOLATION GOING
16 SOMEWHERE WHERE HE'S NOT SUPPOSED TO.

17 MR. PITMAN: YES, YOUR HONOR.

18 THE COURT: MR. PITMAN, DID I HIT THE STANDARD
19 CONDITIONS THAT YOU WANTED TO BE IN THERE?

20 MR. PITMAN: YOU DID, YOUR HONOR.

21 THE ONLY ADDITIONAL WRINKLE DURING THESE COVID TIMES IS
22 THAT I WOULD LIKE THE COURT TO ORDER MR. BROCKMAN TO REPORT TO
23 THE MARSHALS, AS WELL AS PRETRIAL, IN THE SOUTHERN DISTRICT OF
24 TEXAS FOR BOOKING.

25 THE COURT: THANK YOU FOR THAT REMINDER, AND I AGREE.

1 I DON'T KNOW HOW THE MARSHALS IN HOUSTON ARE DOING THEIR
2 BOOKING PROCESS. IT'S DIFFERENT IN EACH JURISDICTION IN THE
3 COUNTRY.

4 SO WHAT I'LL ASK YOU TO DO IS TO PROVIDE MR. STEPHENS WITH
5 THE INFORMATION FOR THE U.S. MARSHALS IN HOUSTON.

6 AND MR. BROCKMAN, I'M ORDERING YOU, WITHIN THE NEXT WEEK,
7 BY THE 22ND -- AND YOUR ATTORNEYS CAN ESCORT YOU FOR THIS
8 VISIT -- TO BE BOOKED BY THE U.S. MARSHALS THERE, AND THAT'S SO
9 THAT -- YOU WON'T BE GOING INTO THEIR CUSTODY, BUT IT'S SO THAT
10 YOU'LL BE FINGERPRINTED, I EXPECT, AND WILL BE -- IT'LL BE
11 FORMALIZED THAT YOU HAVE BEEN PRESENTED WITH THESE CHARGES AND
12 ARE IN THE SYSTEM. THAT'LL HELP SECURE YOUR FUTURE COURT
13 APPEARANCES.

14 MR. VARNADO: YOUR HONOR, JUST SO THE COURT KNOWS, WE
15 DID REACH OUT TO THE MARSHALS SERVICE ALREADY. THINGS ARE
16 WORKING RATHER STRANGELY. I'M GOING TO GO DOWN THERE TOMORROW
17 TO FIGURE OUT WHAT TO DO.

18 BUT THANK YOU FOR THE WEEK TO DO THAT. I DIDN'T WANT TO
19 TRY TO COMMIT TO DOING IT TOMORROW BECAUSE THINGS ARE OPERATING
20 RATHER STRANGELY. WE'LL GET HIM PROCESSED.

21 THE COURT: VERY GOOD. AND IF THE ANSWER IS THAT
22 THEY CAN'T ACCOMMODATE YOU, YOU LET ME KNOW. BUT I HOPE THAT
23 WITHIN A WEEK'S TIME YOU CAN MAKE THAT HAPPEN SAFELY, BUT IT IS
24 A PART OF THE PROCESS THAT DOES NEED SOME PERSONAL
25 PARTICIPATION.

1 ALL RIGHT. MR. BROCKMAN, IF YOU FAIL TO COMPLY WITH THESE
2 CONDITIONS, THE CONSEQUENCE IS THE GOVERNMENT COULD SEEK A
3 \$1 MILLION FORFEITURE FROM YOU. ALSO, YOU COULD BE HELD IN
4 CUSTODY FOR THE REMAINDER OF THE CASE.

5 IF YOU COMMIT A CRIME WHILE ON RELEASE, THE PUNISHMENT IS
6 INCREASED FROM THE ORDINARY STATUTORY MAXIMUM.

7 MR. BROCKMAN, DO YOU UNDERSTAND THE CONDITIONS OF RELEASE
8 WHICH I DESCRIBED?

9 THE DEFENDANT: YES, I DO.

10 THE COURT: AND DO YOU AGREE TO FOLLOW EACH OF THEM?

11 THE DEFENDANT: I DO.

12 THE COURT: MAY I SIGN ON YOUR BEHALF THE RELEASE
13 ORDER?

14 THE DEFENDANT: YES.

15 THE COURT: ALL RIGHT. I'LL DO THAT. WE'LL SEND YOU
16 A WRITTEN COPY OF IT.

17 AND, AGAIN, WE'RE GOING TO COME BACK IN TWO WEEKS BY
18 VIDEO. SO AT THAT TIME, ANY PARTY CAN TELL ME IF WE SHOULD
19 MODIFY THOSE TEMPORARY RELEASE CONDITIONS, OR YOU CAN TELL ME
20 BEFORE THE HEARING THAT YOU DON'T SEEK MODIFICATION AND THEN
21 WE'LL JUST VACATE THE APPEARANCE ON THE 29TH.

22 OFFICER CHRISTIAN: IF I COULD ALSO PROVIDE THE
23 ADDRESS TO OVERNIGHT THE PASSPORT AND THE PHONE NUMBER?

24 MR. STEPHENS: THAT WAS MY NEXT QUESTION, JAY.

25 OFFICER CHRISTIAN: OKAY. WE'RE ON THE SAME PAGE

1 THEN.

2 SO IT'S GOING TO BE 450 GOLDEN GATE AVENUE, AND THAT'S
3 GOING TO BE SUITE 18-5497. AGAIN, IT'S 450 GOLDEN GATE, SUITE
4 18-5497, AND IT CAN BE ADDRESSED TO PRETRIAL SERVICES. AND
5 THAT'S IN SAN FRANCISCO, CALIFORNIA, 94102.

6 AND PROVIDING THE CONTACT INFORMATION FOR THE DEFENDANT TO
7 FOLLOW-UP TOMORROW AFTER 10:30 FOR THE ASSIGNED OFFICER TO
8 ARRANGE THE INTERVIEWS, AND TO ALSO HOPEFULLY HAVE SOME
9 LOGISTICS FIGURED OUT ON OUR END, THAT NUMBER IS 415-436-7501.
10 415-436-7501.

11 MR. STEPHENS: VERY GOOD. THANK YOU.

12 OFFICER CHRISTIAN: YEAH.

13 THE COURT: ALL RIGHT. I THINK THAT'S EVERYTHING.
14 WE'VE EXCLUDED TIME, WE'VE SET THE FURTHER COURT DATES, AND
15 PRETRIAL WILL BE COMMUNICATING FURTHER WITH YOU ABOUT ANY
16 FURTHER MODIFICATION OF THOSE RELEASE CONDITIONS.

17 MR. PITMAN, ANYTHING FURTHER WE SHOULD DO IN THIS CASE?

18 MR. PITMAN: NO. THANK YOU, YOUR HONOR.

19 THE COURT: THANK YOU VERY MUCH.

20 MR. STEPHENS, ANYTHING FURTHER?

21 MR. STEPHENS: NO. THANK YOU, YOUR HONOR, FOR TAKING
22 SO MUCH TIME ON A VERY CROWDED CALENDAR.

23 THE COURT: YOU'RE WELCOME. THANKS ALL FOR YOUR
24 WAITING AND PATIENCE.

25 THAT CONCLUDES THIS MATTER.

1 HAVE A GOOD DAY, MR. BROCKMAN. WE'LL SEE YOU IN TWO
2 WEEKS.

3 OFFICER CHRISTIAN: I THINK MS. HARRELL HAS ONE EXTRA
4 QUESTION.

5 THE COURT: OH, YES.

6 THE CLERK: IF COUNSEL CAN PROVIDE THE DEFENDANT'S
7 ADDRESS VIA E-MAIL SO I CAN PUT IT ON THE BOND, THAT WOULD BE
8 VERY APPRECIATED.

9 MR. STEPHENS: YES, MS. HARRELL. WE'LL DO THAT RIGHT
10 AFTER THIS CALL.

11 THE CLERK: THANK YOU.

12 THE COURT: ALL RIGHT. THANK YOU VERY MUCH.

13 MR. PITMAN: THANK YOU, YOUR HONOR.

14 THE COURT: AND WE'LL GET THE RELEASE ORDER OUT TO
15 YOU LATER TODAY.

16 MR. STEPHENS: THANK YOU, YOUR HONOR.

17 THE COURT: ALL RIGHT. HAVE A GREAT DAY. THANK YOU
18 VERY MUCH.

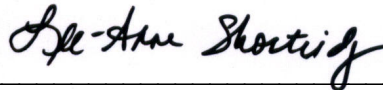
19 THE DEFENDANT: BYE. THANK YOU.

20 (THE PROCEEDINGS WERE CONCLUDED AT 12:59 P.M.)
21
22
23
24
25

CERTIFICATE OF REPORTER

I, THE UNDERSIGNED OFFICIAL COURT REPORTER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, 280 SOUTH FIRST STREET, SAN JOSE, CALIFORNIA, DO HEREBY CERTIFY:

THAT THE FOREGOING TRANSCRIPT, CERTIFICATE INCLUSIVE, IS A CORRECT TRANSCRIPT FROM THE RECORD OF ZOOM PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.



LEE-ANNE SHORTRIDGE, CSR, CRR
CERTIFICATE NUMBER 9595

DATED: OCTOBER 27, 2020